

Writ Petition No. 2309 of 2005

VS

Ms Sushma Bhende AGP for respondents

Dated 8.7.2005

1. The petitioner is a retired employee of Air India and is aged 72 years. The petitioner was issued a licence to hold Pistol/Revolver ,32 Bore in or about 1992 by the Commissioner of Police, Mumbai. The said Armed Licence was later on allowed for .45 Bore Pistol and was renewed from time to time. In or about November 2002 the petitioner applied for permission to sell the weapon and purchase another N.P.Bore Pistol. The

permission was granted till 7th October 2003 . However, due to non availability of suitable weapon petitioner was unable to buy th Pistol/Revolver till that ate. The petitioner applied for extension of time for purchase of new Pistol/Revolver as the Armed Licence was valid only till July 2004.

2. The office of the respondent no. 2 issued a Show Cause Notice No SCN 5191/36276/03 dated 30.10.2003 to show cause why the Armed Licence held by him should not be cancelled. The petitioner sent his replies dated 3.12.2003 and 30.12.2003. The Dy Commissioner of Police vide order dated 28.1.2004 cancelled the Armed Licence of the petitioner with direction to deposit the same in the office. The petitioner challenged the order dated 28.1.2004 by way of appeal before the State Government which came to be dismissed on 18.8.2004. The legality and propriety of orders dated 28.1.2004 and 18.8.2004 is questioned in this petition.

3. We have heard the learned counsel appearing for the parties. We have gone through the two orders of the Dy Commissioner of Police and the State Government. It appears that the Armed Licence has

been cancelled mainly on the ground that the petitioner had sold/transferred the Armed Licence on 7 occasions without taking prior permission of the authorities. In his reply the petitioner had specifically contended that the prior permission has been granted to the petitioner and there was no ground or cause for cancellation of the Armed Licence. The petitioner had given detailed explanation as to how the transactions were effected and are noted in Arms and Ammunition Branch file. The learned counsel for the petitioner submitted and in our opinion rightly so that the reply of the petitioner was not considered by the Dy Commissioner of Police and the Licence was revoked merely on the allegation in the show cause notice. Various contentions raised by the petitioner were not even referred to in the impugned orders and the order of the Dy Commissioner is virtually a non speaking. The Appellate Authority has also not assigned any reason for dismissing the appeal of the petitioner. It is merely observed by the Appellate Authority that he is of the opinion that it is not necessary to restore the cancelled Armed Licence of the petitioner. The order does not indicate what was the alleged breach of the terms and when it was committed. In the circumstances, the impugned

orders cannot be sustained and are hereby quashed and set aside. The matter is remitted back to the Dy Commissioner of Police to consider the same afresh in accordance with law after giving an opportunity of personal hearing to the petitioner. The Dy Commissioner of Police shall decide the matter expeditiously and in any event within 3 months from today. All contentions on merits are left open to the parties. Rule is accordingly made absolute with no order as to costs.